

Message Text

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ORIGIN EB-08

INFO OCT-01 ARA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00
DOTE-00 INR-07 NSAE-00 CIEP-01 FAA-00 SS-15 NSC-05
L-03 FEA-01 /049 R

DRAFTED BY EB/OA/AVP:SCKEITER:PMA
APPROVED BY EB/OA/AVP:MHSTYLES
EB/OA/AVP:AJWHITE
EB/OA/AN:ARIMAS
ARA/NC:DCOX
L/EB:PMICKEY
COMMERCE:EGRAUMAN
FEA:KBAUER (PHONE)
DOT/OST:LERICSON (INFO)
CAB/BIA:CCOLDREN (INFO)

-----090307Z 102930 /63

R 082045Z FEB 77
FM SECSTATE WASHDC
TO AMEMBASSY BOGOTA

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E.O. 11652: N/A

TAGS: EAIR, CO, ENRG

SUBJECT: CIVAIR - JET FUEL PRICES

REF: (A) BOGOTA 785, (B) BOGOTA 414, (C)
BOGOTA 199, (D) 75 BOGOTA 3946, (E) 75 BOGOTA 4887, (F)
75 BOGOTA 6030, (G) 75 STATE 60859, (H) 75 STATE 141810

1. DEPARTMENT IS SURPRISED AT REVIVAL OF IDEA OF
CONSULTATIONS OVER QUESTION OF DISCRIMINATORY PRICING
IN FAVOR OF AVIANCA. IT WAS DEPARTMENT'S IMPRESSION,
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BOTH INFORMALLY AND AS INDICATED IN REFS. E AND F, THAT
PROPOSAL FOR CONSULTATIONS HAD BEEN OVERTAKEN BY COLOMBIAN
AGREEMENT TO REMOVE THE DISCRIMINATION, FOLLOWING
EARLIER DECISION TO REMOVE THE TAX (REF. D PARA. 5 AND
PREVIOUS). THAT AGREEMENT PRESUMABLY FOLLOWED REASSURANCE
TO THE COLOMBIANS THAT A) AVIANCA DOES HAVE ACCESS TO
SUFFICIENT U.S. DOMESTIC FUEL FOR ITS NEEDS HERE (REF.

G) AND B) BONDED FUEL REMAINS A POSSIBLE, THOUGH MORE EXPENSIVE AND SOMEWHAT LESS CONVENIENT, ALTERNATIVE. (LATTER, WHICH REMAINS TRUE, OF COURSE SIGNIFIES THAT A DENIAL OF ACCESS TO THE DOMESTIC MARKET SIMPLY MEANS THAT AVIANCA MUST PAY MORE THAN OTHER AIRLINES FOR ITS NEEDS IN THE U.S., AS BRANIFF CURRENTLY PAYS MORE THAN AVIANCA IN COLOMBIA.)

2. TEAM PLANNING TO VISIT COLOMBIA (REF A) WOULD OF COURSE BE PREPARED TO DISCUSS THESE ISSUES, BUT ITS PRESENT INTENTION IS TO APPROACH THEM ON BASIS THAT COLOMBIANS AGREED OVER A YEAR AND A HALF AGO TO MEET THE U.S. OBJECTIONS. HAS DEPT MISSED SOMETHING?

3. EMBASSY'S SUGGESTION THAT U.S. TAX AVIANCA IS UNFORTUNATELY NOT PRACTICAL UNDER PRESENT U.S. LAWS, WHICH EXEMPT COMMERCIAL AVIATION FROM FEDERAL FUEL TAXATION WITHOUT REFERENCE TO NATIONALITY OR RECIPROCITY. ONLY EXCEPTION IS NEGLIGIBLE ONE AND A HALF CENT A GALLON TAX ON IMPORTED FUEL.

4. IT IS FIRM USG VIEW THAT ART. 8 OF BILATERAL COVERS DISCRIMINATORY PRICING. HOW CAN THERE BE "FAIR AND EQUAL OPPORTUNITY" WHEN AVIANCA HAS ACCESS TO CHEAP FUEL THAT BRANIFF IS DENIED? INCIDENTALLY, BRANIFF WOULD BE HAPPY TO BE ALLOWED TO "BRING IN ITS OWN FUEL SUPPLY" (PARA. 3, REF. D); IT WOULD BE CHEAPER.

5. EMBASSY'S SUGGESTION OF CONTACTING AVIANCA'S WASHINGTON LIMITED OFFICIAL USE

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LAWYER HAS PROVED FRUITFUL. BOTH AVIANCA AND COLOMBIAN EMBASSY NOW APPEAR ENGAGED IN WORKING FOR SATISFACTORY SOLUTION OF PROBLEM. EMBOFF (SANTOS) STATED PRICE DIFFERENTIAL WAS OBVIOUS DISCRIMINATION.

6. AFTER ABOVE DRAFTED SANTOS VISITED DEPT TO DISCUSS SUBJECT IN MORE DETAIL. HE PRESENTED COLOMBIAN VIEW THAT PRICE DIFFERENTIAL IS NOT CONTRARY TO BILATERAL, THOUGH ADMITTING HE COULD OFFER NO ARGUMENTATION TO SUPPORT IT, AND SUGGESTED THAT CONSULTATIONS BE INSTITUTED UNDER THE BILATERAL, WITH AVIANCA RETAINING UNRESTRICTED ACCESS TO DOMESTIC U.S. FUEL PENDING THE END OF THE CONSULTATIONS. DEPTOFF RESPONDED THAT THE DIFFERENTIAL SEEMED CLEARLY CONTRARY TO THE "FAIR AND EQUAL OPPORTUNITY" CLAUSE, THAT IF NOT THERE WAS NO REASON WHY THE U.S. SHOULD NOT FORCE AVIANCA TO PURCHASE HIGHER-PRICED FUEL IN THE U.S., AND THAT IN ANY CASE THERE WAS SURELY NO REASON WHY THE U.S. SHOULD ALLOW THE EXISTING UNBALANCED SITUATION TO CONTINUE TO EXIST DURING CONSULTA-

TIONS WHEN WE HAD BEEN ASSURED BY COLOMBIAN OFFICIALS MORE THAN 18 MONTHS EARLIER THAT THE PROBLEM WAS ON THE WAY TO BEING RESOLVED. (SANTOS SAID HE WAS SURPRISED THAT SOTO HAD FELT ABLE TO GIVE SUCH ASSURANCES.)

7. SANTOS ALSO MENTIONED A COLOMBIAN TAX RESOLUTION OF JUNE 23, 1975, WHICH IS SAID TO PROVIDE THAT BRANIFF MAY SUBTRACT ITS FUEL TAX PAYMENTS FROM THE TICKET TAX MONIES WHICH IT COLLECTS AND WOULD OTHERWISE TURN OVER

INTACT TO THE GOC. RESOLUTION, OR A SIMILAR ONE, ALSO PROVIDED THAT 500,000 PESOS COULD BE USED TO REFUND TO BRANIFF TAXES EARLIER PAID. (BRANIFF CONFIRMS EXISTENCE OF AT LEAST FIRST RESOLUTION.) WOULD APPRECIATE ANY LIGHT EMBASSY CAN SHED ON WHY THESE PROVISIONS HAVE NOT BEEN IMPLEMENTED.

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8. SANTOS ALSO SAID HE IS UNDER IMPRESSION THAT UNDER BILATERAL AGREEMENT AND COLOMBIAN LAW AND REGULATION BRANIFF COULD IMPORT JET FUEL ON ITS OWN ACCOUNT WITHOUT PAYMENT OF DUTY. CAN EMBASSY CONFIRM?
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: JET FUEL, TAX RELIEF, PRICES
Control Number: n/a
Copy: SINGLE
Sent Date: 08-Feb-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE028283
Document Source: CORE
Document Unique ID: 00
Drafter: SCKEITER:PMA
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770045-0791
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770261/aaaaccef.tel
Line Count: 144
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 62b0acc9-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 BOGOTA 785, 77 BOGOTA 414
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 12-Jan-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3376841
Secure: OPEN
Status: NATIVE
Subject: CIVAIR - JET FUEL PRICES
TAGS: EAIR, ENRG, CO, US
To: BOGOTA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/62b0acc9-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009